

Following review and discussion, a MOTION was made by Commissioner Jacobs and SUPPORTED by Commissioner Haller to approve the product for installation and use in the State of Michigan.

MOTION CARRIED

11. CERTIFICATE OF ACCEPTABILITY - Document 93-63

Mr. Irvin Poke presented applications for issuance of a certificate of acceptability for Champion Modular Restaurant Co., Inc., MCM Mouldings, Showcase Homes, Inc., and States Electric Manufacturing Co. granting approval to conduct business in the State of Michigan.

The manufacturers submitted three manuals of their compliance assurance program. The Plan Review Division evaluated their submissions for compliance with rules 1161 through 1168 and recommended approval of the issuance of a certificate of acceptability.

Following discussion, a MOTION was made by Commissioner Hueter and SUPPORTED by Commissioner Nalbach to approve the applicants for a certificate of acceptability to conduct business in the State of Michigan.

MOTION CARRIED

11a. CITY OF HAZEL PARK - ROOFING INTERPRETATION

Ms. Susan Lancaster, Assistant City Attorney, City of Hazel Park; Mr. Rick Burelle, Code Enforcement Officer, City of Hazel Park, and Mr. Louigi Laise, Building Inspector for City of Hazel Park, spoke to the Commission about the bureau's interpretation that a permit is not required for ordinary roofing repairs. Ms. Lancaster explained that there was a problem with roofing in the city. There are many older homes in the area and residents have had problems when a contractor makes a roof repair and problems develop. The permit system is a way for the city to monitor these situations. She asked that standards be provided regarding these types of repairs. Mr. Burelle stated that the BOCA code did not provide specific language for repairs to roofs, but he believes that Article 23 of the BOCA code does provide for regulation of reroofing. Mr. Laise spoke of the dangers of poor workmanship on roofing repairs and the possible threat to the health and safety of the residents.

Discussion was held on whether the City of Hazel Park and other communities who are requiring permits may still do so even though the bureau policy says certain roofing repairs are not subject to the code. Mr. Henry Green stated that the Commissioners could reverse the interpretation of the bureau and issue their own interpretation. What has to be decided is to what degree the interpretation would differ and what would be included under public safety and welfare.

Chairperson Zylstra reminded Commissioners that the issue had been tabled to the September 1 meeting at which time the bureau would provide information resulting from research of this issue.

The MOTION was made by Commissioner Kunselman and SUPPORTED by Commissioner Dailey that the Commission consider a motion to interpret the code, at this period of time until a formal recommendation is returned from the bureau, to say that roofing does involve safety; and if permits are being used, it is acceptable until an official decision has been rendered.

MOTION CARRIED

12. PERFORMANCE EVALUATION STATUS REPORT

a. Bay City/Bay County - Document 93-67

Ms. Kay Ingalls presented a status report on the performance evaluation of Bay City. She indicated it was the recommendation of staff to close the file as Bay City has addressed all concerns in the performance evaluation report.

A MOTION was made by Commissioner Bosanac and SUPPORTED by Commissioner Kunselman to close the Bay City performance evaluation file.

MOTION CARRIED

b. Otsego County - Document 93-68

Ms. Ingalls presented a status report on the performance evaluation of Otsego County. She indicated it was the recommendation of staff to close the file as Otsego County has addressed all concerns in the performance evaluation report. The initial concerns of the bureau were staffing levels and the number of active permits. Reevaluation of the County showed they had greatly decreased the number of active permits and added more staff. However, staff was recommending that the file again be reviewed after the construction season.

Following discussion, a MOTION was made by Commissioner Dailey and SUPPORTED by Commissioner Hueter to close the Otsego County performance evaluation file with the condition that follow up of the file be conducted by January 1, 1994.

MOTION CARRIED

CITY OF HAZEL PARK
INTERDEPARTMENTAL MEMO

To: State of Michigan Code Commission From: Hazel Park Building Dept.

Re: Permit Requirement for Re-Roofing Date: July 5, 1993

The Director of the State of Michigan Bureau of Construction Codes has opinioned that a permit is not required for roof replacement unless the work requires the removal or replacement of the roof decking.

The honorable director has based his opinion on the following rationale:

- 1) Section 8 (7) of the State Construction Code sets forth certain sections of the act from which a governmental subdivision cannot exempt itself;
- 2) Section 10 (1) provides, in essence, that except as otherwise provided by the code, a building permit application and fees are required.
- 3). Section 10 (7) states, that notwithstanding this section, a building permit is not required for ordinary repairs of a building and structure.

Although the City of Hazel Park acknowledges that the above code sections are cited properly by Mr. Green, the code, from this point forward, is largely silent as to what constitutes "ordinary repair."

Director Green bases his interpretation of the term "ordinary repair" on Section 104.1 of the State Construction Code, which is also the BOCA National Building Code, which states:

"Application or notice to the code official is not required for ordinary repairs to structures, but such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exit requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety."

The section cannot be cited as a definition of ordinary repairs, however, because it is obviously intended to only include areas of exemption and does not, by any means, confine all work outside of these exempted areas to the category of ordinary. The section is also careful to include the catchall phrase "...or other work affecting public health or general safety."

Section 2308 of the BOCA National Building Code of 1990 specifically governs reroofing in several important categories, those being the type of materials used, structural and construction loads, amount of layers, conditions precipitating removal of existing roof coverings, reuse of material and findings.

Conformance to these regulations has a definite impact on fire safety and structural integrity, and, therefore, are directly related to health, safety and welfare.

The lack of any working definition of "ordinary repairs" in the state code also subjects this topic to the more specific language contained in BOCA Building Code Section 111.1, which states, in part, that it is unlawful to "...install or alter any equipment for which provision is made or the installation of which is regulated by this code, without first filing an application with the code official in writing and obtaining the required permit therefore..."

Clearly, BOCA intended that a permit is required for those installations or alterations regulated by the code.

BOCA attempts to define the issue of ordinary repairs with regard to reroofing even more specifically in Section 2308.1., stating that "The repair of existing roofs and roof coverings shall comply with the provisions of Section 103.0, but more than 25% of the roof covering of any building shall not be removed and replaced within any 12 month period unless the entire roof covering is made to conform to the requirements for new roofing."

This language has not changed since at least the 1984 version of the code, which was the subject of code interpretation no. 23/1427/82, to wit:

QUESTION: IS REROOFING CONSIDERED AN ORDINARY REPAIR WITHIN THE CONTEXT OF SECTION 104.0 AND THUS EXEMPT FROM THE BUILDING PERMIT PROCESS?

ANSWER: NOT NECESSARILY.

COMMENT: SECTION 1427.2 OF THE BOCA BASIC NATIONAL BUILDING CODE/1984 REQUIRES REPAIR OF MORE THAN 25% OF A BUILDING'S ROOF, WITHIN A 12 MONTH PERIOD, TO MEET THE REQUIREMENTS OF A NEW ROOF. THUS, REPAIRS TO LESS THAN 25% OF A BUILDING'S ROOF WOULD BE CONSIDERED AN ORDINARY REPAIR FOR EXEMPTION FROM THE REQUIREMENT FOR A BUILDING PERMIT.

The City of Hazel Park, in addition to 25 of 30 cities in Oakland County, follows this requirement, which is specific and exact and not as open to interpretation as the general term "ordinary."

In conclusion, we wish to submit that our position should not be construed as a challenge to the director's interpretation, but rather a request for a ruling in area where diverse opinions, both carefully drawn and considered, sometimes require direction. We believe we have offered conclusions that are no less compelling than that of Mr. Green and respectfully request that our position be upheld.